

Message Text

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ACTION EB-07

INFO OCT-01 AF-10 ARA-10 EA-07 EUR-12 NEA-10 IO-13
ISO-00 FEA-01 AGRE-00 CEA-01 CIAE-00 COME-00
DODE-00 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04
NSAE-00 NSC-05 PA-01 EPG-02 AID-05 SS-15 STR-04
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 /138 W
-----078122 242250Z /66

R 241619Z JUN 77
FM USMISSION GENEVA
TO SECSTATE WASHDC 8596
INFO AMEMBASSY BRUSSELS
AMEMBASSY LISBON

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USEEC

EO 11652: NA
TAGS: ETRD, GATT, PO, EEC
SUBJ: GATT WP ON EC-PORTUGAL

REF: STATE 139477

SUMMARY. WORKING PARTY COULD NOT REACH ANY UNANIMOUS CONCLUSIONS AS TO THE COMPATIBILITY OF THE INTERIM AGREEMENT WITH THE PROVISIONS OF THE GATT. END SUMMARY.

1. WP MET JUNE 22 AND 24 IN TWO BRIEF HALF-DAY SESSIONS TO CONSIDER INTERIM AGREEMENT FOR A FREE TRADE AREA BETWEEN PORTUGAL AND THE EC. BOTH THE EC AND PORTUGAL, ON ONE SIDE, AND THE U.S., SUPPORTED BY JAPAN AND CANADA, MADE CUSTOMARY ARGUMENTS.

2. EC STRESSED COMPATIBILITY OF AGREEMENT WITH ARTICLE AND SPIRIT OF ART XXIV POINTING OUT THAT INTERIM AGREEMENT
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IMPROVED ORIGINAL ACCORD AND THAT MAJORITY OF INTRA EC-PORTUGAL TRADE INCLUDED IN THE AGREEMENT. EC STRESSED THAT INTERIM AGREEMENT WAS PART OF PACKAGE FOR IMPROVED COOPERATION BETWEEN THE EC AND PORTUGAL DESIGNED TO EXTEND THE 1972 PROTOCOL INTO ECONOMIC AND INDUSTRIAL COOPERATION AS WELL AS LABOR AND SOCIAL SECURITY. PORTUGUESE DEFENDED GATT LEGALITY AND UNDERLINED THAT

THE AGREEMENT HAD BEEN NEGOTIATED IN THE CONTEXT OF PRO-
NOUNCED POLITICAL INSTABILITY COUPLED WITH A DIFFICULTY
ECONOMIC SITUATION.

3. WHILE REPEATING US SUPPORT FOR CLOSER ECONOMIC
COOPERATION BETWEEN THE EC AND PORTUGAL, WE QUESTIONED
THE CONSISTENCY OF THE INTERIM AGREEMENT WITH ARTICLE
XXIV:8(B) WITH RESPECT TO TRADE COVERAGE AND
XXIV:5(B) WITH RESPECT TO RULES OF ORIGIN. JAPAN
SUPPORTED US ON BOTH POINTS WHILE CANADA CONCENTRATED
ON RULES OF ORIGIN, STATING THAT THE RULES OF ORIGIN
HAD BEEN PREJUDICIAL TO CANADA'S TRADE INTERESTS AND
RESERVING CANADA'S RIGHT TO REVERT TO THE QUESTION IF
SPECIFIC PROBLEMS AROSE. EC REPEATED PREVIOUS CON-
TENTION THAT XXIV:5(B) IS IRRELEVANT SINCE EC-PORTUGAL
RULES OF ORIGIN ARE IN A DIFFERENT CONTEXT THAN ORIGINAL
EFTA RULES.

4. WE ALSO QUESTIONED POTENTIAL DISCRIMINATORY APPLICA-
TION OF THE AGREEMENT'S SAFEGUARD PROVISIONS, AND EC
ARGUED THAT THE OMISSION OF ANY MENTION OF ART XIX IN THE
CONTEXT OF ART XXIV GAVE THEM THE FREEDOM TO DISCRIMI-
NATE IN THE APPLICATION OF ART XIX. WE REPEATED OUR
VIEW THAT ART XXIV DOES NOT EXEMPT THE PARTIES FROM OTHER
OBLIGATIONS OF THE GENERAL AGREEMENT, NAMELY THE NON-
DISCRIMINATORY APPLICATION OF ARTICLE XIX.
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5. WE ALSO QUESTIONED THE PORTUGUESE ON THE POSSIBLE
DISCRIMINATORY APPLICATION OF ITS SURCHARGE IF ARTICLE
VI OF THE INTERIM PROTOCOL WERE INVOKED. THEY REPLIED
THAT, IF ARTICLE VI WERE INVOKED ON SELECTED ARTICLES,
THOSE ARTICLES WOULD BE DELETED FROM THE LIST SUBJECT TO THE
SURCHARGE, AND THAT, IN THEIR VIEW THIS DID NOT CON-
STITUTE DISCRIMINATION.

6. SWITZERLAND SUPPORTED THE EC'S CONTENTION THAT THE
AGREEMENT WAS COMPATIBLE WITH ART XXIV, NOTED THAT THE
PERCENTAGE OF TRADE BETWEEN THE TWO PARTIES WAS LIKELY
TO INCREASE, AND ARGUED THAT THE DIFFERENCES IN ECONOMIC
DEVELOPMENT BETWEEN THE TWO PARTIES SHOULD BE CONSIDERED
IN ASSESSING THE AGREEMENT'S COMPATIBILITY WITH GATT.
NO OTHER MEMBER OF THE WP SPOKE.

7. WP REPORT WILL REFLECT DIFFERING VIEWS BUT WILL STATE
THAT THERE WAS NO UNANIMOUS CONCLUSION WITH RESPECT TO
THE COMPATIBILITY OF THE AGREEMENT WITH THE GATT.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMMITTEE MEETINGS, TRADE AGREEMENTS, REGIONAL ORGANIZATIONS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Sent Date: 24-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977GENEVA05181
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770227-0410
Format: TEL
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770620/aaaaarhp.tel
Line Count: 115
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 86634977-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 139477
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 25-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2039086
Secure: OPEN
Status: NATIVE
Subject: GATT WP ON EC-PORTUGAL
TAGS: ETRD, PO, GATT, EEC
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/86634977-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009